

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FELICIA CROSS,

Plaintiff,

v.

SEATTLE CANCER CARE ALLIANCE, a
Washington nonprofit corporation,

Defendant.

Case No. 2:16-cv-00631-JLR

DECLARATION OF CHRISTOPHER G.
EMCH IN SUPPORT OF REVISED
STIPULATION FOR ORDER
MODIFYING CASE SCHEDULE

NOTED ON MOTION CALENDAR:
February 23, 2017

Christopher G. Emch declares and states as follows:

1. I am an attorney for defendant Seattle Cancer Care Alliance in this matter. I have personal knowledge of the facts set forth herein and am competent to testify herein.

2. On October 18, 2016, Plaintiff served its First Interrogatories and Request for Production on Seattle Cancer Care Alliance in the above-captioned action. Plaintiff's discovery demand was substantially broader than anticipated or indicated to the Court in the Joint Status Report (ECF Docket No. 18). For instance, Plaintiff's demand included requests for information regarding more than 50 internal billing audits of clinical trials conducted by cancer researchers at SCCA from 2007 to 2013. Each of these audits contains voluminous amounts of personal health information ("PHI") requiring protection under state and federal law.

DECLARATION OF CHRISTOPHER G. EMCH IN SUPPORT OF
REVISED STIPULATION FOR ORDER MODIFYING CASE
SCHEDULE

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1 3. SCCA timely served its answers, responses, and objections to Plaintiff's discovery
2 requests on November 17, 2016. Immediately thereafter, on November 18, 2016, SCCA
3 produced documents responsive to Plaintiff's discovery requests for which a protective order was
4 not required. However, in light of the broad scope of Plaintiff's document requests and SCCA's
5 objections, counsel for the parties continued to engage in the meet and confer process to modify
6 the proposed form of protective order to cover and address the confidential, proprietary, and
7 private information at issue, including PHI for which special protection was required under
8 HIPAA and Chapter 70.02 RCW.

9 4. Promptly upon receipt of Plaintiff's document requests and throughout the meet and
10 confer process among counsel, SCCA diligently engaged in collecting potentially responsive
11 documents. Because of the broad scope of collection and the sensitive nature of confidential
12 health care information, SCCA's counsel engaged computer forensic specialist David Stenhouse
13 of DS Forensics, Inc. to assist with the collection efforts and to ensure the efficiency and
14 integrity of the collection process.

15 5. Mr. Stenhouse is a computer forensics examiner with hundreds of examinations in his
16 experience. He is also a former Special Agent in the United States Secret Service, with extensive
17 experience in electronic evidence investigations. Mr. Stenhouse has extensive experience with
18 the civil court process and evidentiary chain-of-custody issues. He has testified in State court in
19 numerous criminal and civil cases, and has testified in Federal court as an expert witness in
20 computer-generated evidence. A true and correct copy of biographical information about
21 Mr. Stenhouse's professional experience, downloaded from the DS Forensics, Inc. website at
22 <http://dsforensics.com/company.html> on February 23, 2017, is attached hereto as Exhibit A.

23 6. With Mr. Stenhouse's assistance, SCCA's electronic discovery process resulted in
24 the collection of 1.2 terabytes of electronic data, equating to approximately 9.6 million
25 documents to be reviewed. In addition, because of the nature of the audits being sought, SCCA's
26 counsel, with Mr. Stenhouse's assistance, collected another approximately 38 gigabytes of

1 SCCA documents with over 53,000 files for further review and de-duplication. These efforts
2 also required some unexpected and time-consuming steps by SCCA necessary to efficiently
3 extract data from the relevant electronic platforms. I am informed that this is one of the largest
4 collections of electronic data ever conducted by Mr. Stenhouse in his decades of computer
5 forensic experience.

6 7. Plaintiff timely served responses and objections to SCCA's First Interrogatories and
7 Requests for Production To Plaintiff on December 21, 2017, along with an initial production of
8 documents to SCCA.

9 8. On January 5, 2017, the parties engaged in a discovery conference to address the
10 parties' respective discovery objections, the status of the parties' respective document
11 productions, compliance with the protective order, narrowing of the requests to expedite
12 discovery and maintain focus on the claims and defenses at issues in the case, and the case
13 schedule. Even if the amount of responsive documents to be produced ultimately turned out to
14 be limited, the scope of Plaintiff's discovery requests made for a very large, burdensome,
15 disproportionally costly and cumbersome culling and review process by SCCA. Accordingly,
16 Plaintiff's counsel agreed to engage in a good faith reevaluation of the scope of Plaintiff's
17 requested discovery and inform SCCA's counsel whether the requests could be reasonably
18 narrowed.

19 9. On January 30, 2017, SCCA's counsel received a letter from Plaintiff's counsel which
20 narrowed the scope of Plaintiff's document requests to certain documents relating to 15 audits,
21 pared down from the original request for material from over 50 audits. This narrowing allowed
22 SCCA to refocus its efforts on the culling and identification process, which resulted in a further
23 production on February 17, 2017, with additional supplemental productions to follow. For
24 example, SCCA's counsel has conducted over 200 searches, both initial and culling, to identify
25 and winnow the potentially responsive, relevant data. These productions also require intensive
26

1 and careful review and redaction efforts for PHI, consistent with the protective order and federal
2 and state law.

3 10. On February 20, 2017, Plaintiff made a supplemental document production to SCCA,
4 which is in the process of being diligently reviewed.

5 I declare under penalty of perjury under the laws of the United States of America that the
6 foregoing is true and correct.

7 Executed on this 23rd day of February, 2017.

8 s/ Christopher G. Emch
9 Christopher G. Emch

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CERTIFICATE OF SERVICE

I certify that on February 23, 2017, a true copy of the foregoing document was served electronically upon the parties via CM/ECF, or as indicated, as follows:

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<input type="checkbox"/>	via Hand Delivery
<input type="checkbox"/>	via First Class Mail, postage prepaid
<input type="checkbox"/>	via Facsimile
<input type="checkbox"/>	via E-mail
<input checked="" type="checkbox"/>	via Electronic Court Filing

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